UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RESMED CORP.
Petitioner

v.

CLEVELAND MEDICAL DEVICES, INC.
Patent Owner

Case IPR2023-00565
U.S. Patent No. 10,076,269
Issue Date: September 18, 2018
Title: Devices and Methods for Sleep Disorder Diagnosis and Treatment

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PETITION FOR *INTER PARTES* REVIEW UNDER 35 U.S.C. § 312 AND 37 C.F.R. § 42.104

I. MANDATORY NOTICES UNDER 37 C.F.R. § 42.8(B)(1)-(4)

A. Real Party-In-Interest – 37 C.F.R. § 42.8(b)(1)

ResMed Corp. ("Petitioner") identifies ResMed Inc. as a real party in interest without conceding that it is, in fact, a real party in interest.

Petitioner requests *inter partes* review of claims 1-20 ("the Challenged Claims") of U.S. Patent No. 10,076,269 ("'269 patent" or "Challenged Patent" (EX1001)), purportedly owned by Cleveland Medical Devices, Inc. ("Patent Owner" or "PO"), pursuant to 35 U.S.C. §§ 311-19 and 37 C.F.R. § 42.100.

B. Related Matters – 37 C.F.R. § 42.8(b)(2)

The Challenged Patent is being asserted in the following lawsuit that may affect or be affected by a decision in this proceeding: *Cleveland Medical Devices, Inc., v. ResMed Inc*., case no. 1:22-cv-00794-UNA, filed June 16, 2022, in the U.S. District Court for the District of Delaware. The lawsuit also involves unrelated U.S. Patents 10,028,698; 10,426,399; 10,478,118; 10,925,535; 11,064,937; 11,202,603; 11,234,637. Petitioner is not aware of any other proceeding that would affect, or be affected by, this proceeding.

C. Lead And Back-Up Counsel – 37 C.F.R. § 42.8(b)(3)

Petitioner designates the following counsel. Power of attorney pursuant to 37 C.F.R. § 42.10(b) accompanies this Petition.

XVII. GROUND 8: CLAIM 20 IS OBVIOUS OVER KOCINSKI, FARRELL, BLUETOOTH AND PARADISO.

[Claim 20] The system of claim 15, wherein the airflow sensor data is processed using one or more of the signal processing techniques from the group consisting of a standard deviation technique, a recursively fit ARMAX system identification model, a short-time Fourier transform technique, a time-frequency signal analysis with a variety of different kernels, and a <u>wavelet analysis</u>.

For similar reasons expressed for claims 4 and 6, POSITA would have found it obvious, and had reasonable expectations of success, to incorporate Paradiso's wavelet analysis to the processing of potentially noisy and/or weak physiological sensor data that helps Kocinski identify the "frequency and nature of events detected while the patient sleeps, such as apnea events, maintenance warnings," etc. EX1012, [0028]. EX1004, ¶156.

XVIII. CONCLUSION

Petitioner requests that the Challenged Claims be found unpatentable.

Respectfully submitted,

Dated: March 22, 2023

/s/ Edward H. Sikorski
Edward H. Sikorski
Reg. No. 39,478
Attorney for Petitioner

CERTIFICATE OF SERVICE
UNDER 37 C.F.R. § 42.105

The undersigned certifies service pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(b) on the Patent Owner by **Priority Mail Express®** of this Petition for *Inter Partes* Review and supporting material at the following correspondence address of record for the Challenged Patent:

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Dated: March 22, 2023

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